

To: Amanda Harvey[Amanda.Harvey@ci.bremerton.wa.us]
Cc: Kylie Purves[Kylie.Purves@ci.bremerton.wa.us]
From: David Horton
Sent: Wed 9/14/2016 1:09:15 PM
Subject: RE: Sesko Lien

Amanda:

The way I read the statutory scheme is that you can foreclose a lien for up to six months without filing anything. If you do file a lien it can relate back up to six months and then continues to accrue for 2 more years, at which time you have to file an action or the SOL runs. I think the intent is to not let cities let sewer charges run up so high that it is a way to take property. (Not that COB is trying to do that). It also protects lienholders since the sewer lien has a superpriority. If I am the bank, I do not want to, all of a sudden, learn that there is a large lien going back many years on the property I am going to foreclose on.

I cannot come up with a construction that allows more than a six -month look-back. Otherwise the 2 year SOL is meaningless, because a city would not want to record a lien because then it will be forced to foreclose within two years. Maybe MRSC can help?

David P. Horton
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3212 NW Byron Street, Suite 104
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(360) 692 6415
(360) 692 1257 (fax)
dhorton@thwpllc.com

-----Original Message-----

From: Amanda Harvey [mailto:Amanda.Harvey@ci.bremerton.wa.us]
Sent: Wednesday, September 14, 2016 12:38 PM
To: David Horton <dhorton@thwpllc.com>
Cc: Kylie Purves <Kylie.Purves@ci.bremerton.wa.us>
Subject: RE: Sesko Lien

Dave,

I have thought about that, and I think I've discussed it with MRSC.

RCW 35.67.21

Sewerage lien-Extent-Notice

The sewerage lien shall be effective for a total of not to exceed six months' charges WITHOUT THE NECESSITY OF ANY WRITING OR RECORDING. In order to make such lien effective for MORE THAN SIX MONTHS' CHARGES the city shall cause to be filed for record a notice....

I have not been able to reconcile the wording contained in the form (in the statute) with the wording above, which says that if we record the lien, it can be for more than 6 months of charges. And I have not been able to find any case law on the issue.

If you look at 35.67.230, the statute discerns between a lien for which there is a filed lien notice -- providing a 2-year SOL, and a "six months lien."

There's nowhere else in the statute that appears to limit the length of the lien to 6 months.

I think we have, at a minimum, a very good faith argument for our position. What do you think?? Am I just reading the statute wrong?

~Amanda

-----Original Message-----

From: David Horton [mailto:dhorton@thwpllc.com]
Sent: Wednesday, September 14, 2016 11:55 AM
To: Amanda Harvey
Cc: Kylie Purves
Subject: RE: Sesko Lien

Amanda:

I ordered title and will get this filed no later than Monday. I do have a concern regarding the amount of the lien. RCW 35.67.210 says that the lien is only effective for six months before the lien is filed. (And the form lien has that language as well, which is absent from your lien) So, my guess is that the lien was filed late because of the amount? Can you explain?

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-----Original Message-----

From: Amanda Harvey [mailto:Amanda.Harvey@ci.bremerton.wa.us]
Sent: Tuesday, September 13, 2016 1:09 PM
To: David Horton <dhorton@thwpllc.com>
Cc: Kylie Purves <Kylie.Purves@ci.bremerton.wa.us>
Subject: Sesko Lien

Hi Dave,

Attached are the Agreement I drafted and a copy of the Lien.

I've cc'd Kylie and will get her up to speed in the morning when we're both in the office.

Thank you!
Amanda

-----Original Message-----

From: RicohMFP@ci.bremerton.wa.us [mailto:RicohMFP@ci.bremerton.wa.us]
Sent: Monday, September 12, 2016 11:20 AM
To: Amanda Harvey
Subject: Message from "RNP002673C4B1DD"

This E-mail was sent from "RNP002673C4B1DD" (MP C4504).

Scan Date: 09.12.2016 11:19:50 (-0700)
Queries to: RicohMFP@ci.bremerton.wa.us